

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CLOANTO CORPORATION, *et al.*,  
  
Plaintiffs,  
  
v.  
  
HYPERION ENTERTAINMENT CVBA,  
  
Defendant.

Case No. C18-381-RSM

ORDER GRANTING PLAINTIFFS'  
MOTION FOR PAYMENT OF COSTS TO  
COURT TO STAY ENFORCEMENT OF  
AWARD OF COSTS PENDING APPEAL

This matter comes before the Court on Plaintiffs' Motion for Payment of Costs to Court to Stay Enforcement of Award of Costs Pending Appeal. Dkt. #163. Defendant Hyperion Entertainment C.V.B.A. ("Hyperion") does not oppose the Motion. Pursuant to Fed. R. Civ. P. 62(d), Plaintiffs ask the Court to approve the payment to the Court of \$2,471.36 to stay enforcement of the award of costs pending their appeal to the Ninth Circuit Court of Appeals. The amount is based on an award of costs in the amount of \$1,838.10, plus \$133.26 (18 months of interest at the constant rate of interest of 4.83% per annum), plus \$500 (for taxable costs on appeal).

Judgment in this matter was entered by the Clerk of Court on May 2, 2023 (Dkt. #159), granting Defendant Hyperion's Motion for Summary Judgment (Dkt. #105) as to all counts contained in the Second Amended Complaint and as to all Plaintiffs, and dismissing all of

1 Plaintiffs' claims in the Second Amended Complaint. On May 3, 2023, costs in the amount of  
2 \$1,838.10 were taxed against Plaintiffs and in favor of Defendant Hyperion. Dkt. #160. On May  
3 5, 2023, Plaintiffs filed a Notice of Appeal with the Ninth Circuit Court of Appeals, Case No.  
4 23-35315, appealing the District Court's final judgment.

5 Rule 62(d) states:

6  
7 While an appeal is pending from an interlocutory order or final judgment that grants,  
8 continues, modifies, refuses, dissolves, or refuses to dissolve or modify an injunction, the  
9 court may suspend, modify, restore, or grant an injunction on terms for bond or other  
terms that secure the opposing party's rights. If the judgment appealed from is rendered  
by a statutory three-judge district court, the order must be made either:

10 (1) by that court sitting in open session; or

11 (2) by the assent of all its judges, as evidenced by their signatures.

12  
13 Here, Plaintiffs propose payment to the Court of the full amount, \$1,838.10, plus \$133.26,  
14 representing interest on the award at the rate of 4.83% for a period of 18 months, and the sum of  
15 \$500 for potentially taxable costs on appeal. Plaintiffs state that if this amount is paid to the  
16 Court, Hyperion would be secured against any possible loss resulting from a stay of execution of  
17 the award.

18  
19 Having reviewed the file in this case, deeming itself fully informed, the Court finds and  
20 orders as follows:

- 21 1. Plaintiffs' Motion for Payment of Costs to Court to Stay Enforcement of Award  
22 of Costs Pending Appeal (Dkt. #163) is GRANTED.
- 23  
24 2. Plaintiffs are authorized to deposit with the Court the amount of \$2,471.36. The  
25 amount is based on the award of costs in this case in the amount of \$1,838.10,  
26 plus \$133.26 (18 months of interest at the constant rate of interest of 4.83% per  
27 annum), plus \$500 (for taxable costs on appeal).
- 28

4. Upon making the deposit, enforcement of the award of costs is stayed pending disposition of Plaintiffs' appeal to the Ninth Circuit Court of Appeals.

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ORDER - 3